



5551 Hollywood Blvd., Suite 1248  
Los Angeles, CA 90028  
jon@corbettrights.com  
February 15<sup>th</sup>, 2023

To: Hon. Pamela K. Chen  
United States District Judge  
225 Cadman Plaza East  
Brooklyn, NY 11201  
*via ECF*

**Re: Pre-Motion Conference Request, Case No. 22-CV-4677-PKC-MMH, *Diaspora v. Columbus Ale House Inc et al.***

Dear Judge Chen:

I represent Defendants in the above-captioned action. I write to comply with the Court's Individual Practices & Rules, § 3(A), as well as the Court's unnumbered order dated February 15<sup>th</sup>, 2023, with apologies for earlier mis-reading of the Court's rules.

Defendants intend to move the Court to dismiss the First Amended Complaint under Fed. R. Civ. P. 12(b)(2) and (5) based on failure to effect service. Plaintiffs attempted to serve Defendant Columbus Ale House Inc., a Brooklyn bar, by handing the summons and complaint to a bartender. This fails to meet either federal or state service rules requiring service upon corporate leaders or their agents. Further, the affidavit attempting to prove service upon Defendant Tov Lutzker misstates the attempted service upon that defendant, as demonstrated by security video capturing the interaction.

Although Your Honor's rules do not require a pre-motion conference for Rule 11 motions, for completeness, Defendants advise that they intend to file a motion for sanctions under that rule contemporaneous with the Rule 12 motion discussed *supra*. The basis for this motion is that Plaintiffs are or should be aware that many of their claims have no basis in fact and are therefore frivolous. As briefly as possible, Plaintiffs have

sued Defendants for failing to pay Plaintiff minimum wages; however, Plaintiff was paid via a third-party payroll system that clearly demonstrates this is untrue, and Plaintiff has had access to log into this system and download detailed pay records at all times. Despite being served a Rule 11 safe harbor notice last September clearly placing them on notice of this discrepancy, counsel for Plaintiff has plugged their ears to the lack of any possible merit to the core claims of their case.

I thank the Court for its time and patience.

Respectfully,

/s/Jonathan Corbett

Jonathan Corbett, Esq.

CORBETT RIGHTS, P.C.

5551 Hollywood Blvd, Suite 1248

Los Angeles, CA 90028

Phone:(310) 684-3870

FAX: (310) 675-7080

E-mail: jon@corbettrights.com